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Chapter 7 Protective Orders and Stalking Injunctions

Part 1 General Provisions

78B-7-101 Title.

This chapter is known and may be cited as "Protective Orders and Stalking Injunctions."

Amended by Chapter 142, 2020 General Session

78B-7-102 Definitions.

As used in this chapter:

- (1) "Abuse" means, except as provided in Section 78B-7-201, intentionally or knowingly causing or attempting to cause another individual physical harm or intentionally or knowingly placing another individual in reasonable fear of imminent physical harm.
- (2) "Affinity" means the same as that term is defined in Section 76-1-601.
- (3) "Civil protective order" means an order issued, subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice, under:
 - (a) Part 2, Child Protective Orders;
 - (b) Part 4, Dating Violence Protective Orders;
 - (c) Part 5, Sexual Violence Protective Orders; or
 - (d) Part 6, Cohabitant Abuse Protective Orders.
- (4) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil Stalking Injunctions.
- (5)
 - (a) "Cohabitant" means an emancipated individual under Section 15-2-1 or an individual who is 16 years old or older who:
 - (i) is or was a spouse of the other party;
 - (ii) is or was living as if a spouse of the other party;
 - (iii) is related by blood or marriage to the other party as the individual's parent, grandparent, sibling, or any other individual related to the individual by consanguinity or affinity to the second degree;
 - (iv) has or had one or more children in common with the other party;
 - (v) is the biological parent of the other party's unborn child;
 - (vi) resides or has resided in the same residence as the other party; or
 - (vii) is or was in a consensual sexual relationship with the other party.
 - (b) "Cohabitant" does not include:
 - (i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or
 - (ii) the relationship between natural, adoptive, step, or foster siblings who are under 18 years old.
- (6) "Consanguinity" means the same as that term is defined in Section 76-1-601.
- (7) "Criminal protective order" means an order issued under Part 8, Criminal Protective Orders.
- (8) "Criminal stalking injunction" means a stalking injunction issued under Part 9, Criminal Stalking Injunctions.
- (9) "Court clerk" means a district court clerk.

- (10)
- (a) "Dating partner" means an individual who:
 - (i)
 - (A) is an emancipated individual under Section 15-2-1 or Title 80, Chapter 7, Emancipation; or
 - (B) is 18 years old or older; and
 - (ii) is, or has been, in a dating relationship with the other party.
 - (b) "Dating partner" does not include an intimate partner.
- (11)
- (a) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.
 - (b) "Dating relationship" does not include casual fraternization in a business, educational, or social context.
 - (c) In determining, based on a totality of the circumstances, whether a dating relationship exists:
 - (i) all relevant factors shall be considered, including:
 - (A) whether the parties developed interpersonal bonding above a mere casual fraternization;
 - (B) the length of the parties' relationship;
 - (C) the nature and the frequency of the parties' interactions, including communications indicating that the parties intended to begin a dating relationship;
 - (D) the ongoing expectations of the parties, individual or jointly, with respect to the relationship;
 - (E) whether, by statement or conduct, the parties demonstrated an affirmation of their relationship to others; and
 - (F) whether other reasons exist that support or detract from a finding that a dating relationship exists; and
 - (ii) it is not necessary that all, or a particular number, of the factors described in Subsection (11)(c)(i) are found to support the existence of a dating relationship.
- (12) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- (13) "Ex parte civil protective order" means an order issued without notice to the respondent under:
 - (a) Part 2, Child Protective Orders;
 - (b) Part 4, Dating Violence Protective Orders;
 - (c) Part 5, Sexual Violence Protective Orders; or
 - (d) Part 6, Cohabitant Abuse Protective Orders.
- (14) "Ex parte civil stalking injunction" means a stalking injunction issued without notice to the respondent under Part 7, Civil Stalking Injunctions.
- (15) "Foreign protection order" means the same as that term is defined in Section 78B-7-302.
- (16) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.
- (17) "Law enforcement unit" or "law enforcement agency" means any public agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.
- (18) "Peace officer" means those individuals specified in Title 53, Chapter 13, Peace Officer Classifications.
- (19) "Qualifying domestic violence offense" means the same as that term is defined in Section 77-36-1.1.
- (20) "Respondent" means the individual against whom enforcement of a protective order is sought.
- (21) "Stalking" means the same as that term is defined in Section 76-5-106.5.

Amended by Chapter 262, 2021 General Session

78B-7-104 Venue of action for ex parte civil protective orders and civil protective orders.

- (1) Except as provided in Part 2, Child Protective Orders, the district court has jurisdiction of any action for an ex parte civil protective order or civil protective order brought under this chapter.
- (2) An action for an ex parte civil protective order or civil protective order brought under this chapter shall be filed in the county where either party resides or in which the action complained of took place.

Amended by Chapter 142, 2020 General Session

78B-7-105 Forms for petitions, civil protective orders, and civil stalking injunctions -- Assistance -- Fees.

- (1)
 - (a) The offices of the court clerk shall provide forms to an individual seeking any of the following under this chapter:
 - (i) an ex parte civil protective order;
 - (ii) a civil protective order;
 - (iii) an ex parte stalking injunction; or
 - (iv) a civil stalking injunction.
 - (b) The Administrative Office of the Courts shall:
 - (i) develop and adopt uniform forms for petitions and the protective orders and stalking injunctions described in Subsection (1)(a) in accordance with the provisions of this chapter; and
 - (ii) provide the forms to the clerk of each court authorized to issue the protective orders and stalking injunctions described in Subsection (1)(a).
- (2) The forms described in Subsection (1)(b) shall include:
 - (a) for a petition for an ex parte civil protective order or a civil protective order:
 - (i) a statement notifying the petitioner for an ex parte civil protective order that knowing falsification of any statement or information provided for the purpose of obtaining a civil protective order may subject the petitioner to felony prosecution;
 - (ii) language indicating the criminal penalty for a violation of an ex parte civil protective order or a civil protective order under this chapter and language stating a violation of or failure to comply with a civil provision is subject to contempt proceedings;
 - (iii) a space for information the petitioner is able to provide to facilitate identification of the respondent, including the respondent's social security number, driver license number, date of birth, address, telephone number, and physical description;
 - (iv) a space for information the petitioner is able to provide related to a proceeding for a civil protective order or a criminal protective order, civil litigation, a proceeding in juvenile court, or a criminal case involving either party, including the case name, file number, the county and state of the proceeding, and the judge's name;
 - (v) a space to indicate whether the party to be protected is an intimate partner to the respondent or a child of an intimate partner to the respondent; and
 - (vi) a space for the date on which the provisions of the protective order expire; and
 - (b) for a petition under Part 6, Cohabitant Abuse Protective Orders:
 - (i) a separate portion of the form for those provisions, the violation of which is a criminal offense, and a separate portion for those provisions, the violation of which is a civil violation;
 - (ii) a statement advising the petitioner that when a child is included in an ex parte protective order or a protective order, as part of either the criminal or the civil portion of the order,

- the petitioner may provide a copy of the order to the principal of the school that the child attends; and
- (iii) a statement advising the petitioner that if the respondent fails to return custody of a minor child to the petitioner as ordered in a protective order, the petitioner may obtain from the court a writ of assistance.
- (3) If the individual seeking to proceed as a petitioner under this chapter is not represented by an attorney, the court clerk's office shall provide nonlegal assistance, including:
- (a) the forms adopted under Subsection (1)(b);
 - (b) all other forms required to petition for a protective order or stalking injunction described in Subsection (1)(a), including forms for service;
 - (c) clerical assistance in filling out the forms and filing the petition, or if the court clerk's office designates another entity, agency, or person to provide that service, oversight over the entity, agency, or person to see that the service is provided;
 - (d) information regarding the means available for the service of process;
 - (e) a list of legal service organizations that may represent the petitioner in an action brought under this chapter, together with the telephone numbers of those organizations; and
 - (f) written information regarding the procedure for transporting a jailed or imprisoned respondent to the protective order hearing, including an explanation of the use of transportation order forms when necessary.
- (4) A court clerk, constable, or law enforcement agency may not impose a charge for:
- (a) filing a petition under this chapter;
 - (b) obtaining an ex parte civil protective order or ex parte civil stalking injunction;
 - (c) obtaining copies, either certified or uncertified, necessary for service or delivery to law enforcement officials; or
 - (d) fees for service of:
 - (i) a petition under this chapter;
 - (ii) an ex parte civil protective order;
 - (iii) a civil protective order;
 - (iv) an ex parte civil stalking injunction; or
 - (v) a civil stalking injunction.
- (5) A petition for an ex parte civil protective order and a civil protective order shall be in writing and verified.
- (6)
- (a) The protective orders and stalking injunctions described in Subsection (1)(a) shall be issued in the form adopted by the Administrative Office of the Courts under Subsection (1)(b).
 - (b) A civil protective order that is issued shall, if applicable, include the following language:

"Respondent was afforded both notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322, 108 Stat. 1796, 18 U.S.C. Sec. 2265, this order is valid in all the United States, the District of Columbia, tribal lands, and United States territories. This order complies with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act."
 - (c) An ex parte civil protective order and a civil protective order issued under Part 6, Cohabitant Abuse Protective Orders, shall include the following language:

"NOTICE TO PETITIONER: The court may amend or dismiss a protective order after one year if it finds that the basis for the issuance of the protective order no longer exists and the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order, demonstrating to the court that the petitioner no longer has a reasonable fear of the respondent."

- (d) A child protective order issued under Part 2, Child Protective Orders, shall include:
 - (i) the date the order expires; and
 - (ii) a statement that the address provided by the petitioner will not be made available to the respondent.
- (7)
 - (a)
 - (i) The court clerk shall provide, without charge, to the petitioner, one certified copy of a civil stalking injunction issued by the court and one certified copy of the proof of service of the civil stalking injunction on the respondent.
 - (ii) A charge may be imposed by the court clerk's office for any copies in addition to the copy described in Subsection (7)(a)(i), certified or uncertified.
 - (b) An ex parte civil stalking injunction and civil stalking injunction shall include the following statement:

"Attention: This is an official court order. If you disobey this order, the court may find you in contempt. You may also be arrested and prosecuted for the crime of stalking and any other crime you may have committed in disobeying this order."

Amended by Chapter 159, 2021 General Session

78B-7-105.5 Forms for motions, criminal protective orders, and criminal stalking injunctions.

- (1)
 - (a) The offices of the court clerk shall provide forms to an individual seeking any of the following under this chapter:
 - (i) a criminal protective order; or
 - (ii) a criminal stalking injunction.
 - (b) The Administrative Office of the Courts shall:
 - (i) develop and adopt uniform forms for motions and protective orders and stalking injunctions described in Subsection (1)(a) in accordance with the provisions of this chapter; and
 - (ii) provide the forms to the clerk of each court authorized to issue the protective orders and stalking injunctions described in Subsection (1)(a).
- (2) The forms described in Subsection (1)(b) shall include:
 - (a) language indicating the criminal penalty for a violation of a criminal protective order or criminal stalking injunction under this chapter;
 - (b) language indicating that a criminal protective order that is a continuous protective order may be modified or dismissed under this chapter; and
 - (c) a space to indicate whether the party to be protected is an intimate partner to the defendant or a child of an intimate partner to the defendant.
- (3) A criminal protective order and criminal stalking injunction shall be issued in the form adopted by the Administrative Office of the Courts under Subsection (1)(b).
- (4) Except for a jail release agreement and jail release court order, a criminal protective order that is issued shall, if applicable, include the following language:

"Respondent was afforded both notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322, 108 Stat. 1796, 18 U.S.C. Sec. 2265, this order is valid in all the United States, the District of Columbia, tribal lands, and United States territories. This order complies with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act."

Enacted by Chapter 142, 2020 General Session

78B-7-108 Mutual protective orders.

- (1) A court may not grant a mutual order or mutual civil protective orders to opposing parties, unless each party:
 - (a) files an independent petition against the other for a civil protective order, and both petitions are served;
 - (b) makes a showing at a due process civil protective order hearing of abuse or domestic violence committed by the other party; and
 - (c) demonstrates the abuse or domestic violence did not occur in self-defense.
- (2) If the court issues mutual civil protective orders, the court shall include specific findings of all elements of Subsection (1) in the court order justifying the entry of the court order.
- (3)
 - (a) Except as provided in Subsection (3)(b), a court may not grant a civil protective order to a petitioner who is the respondent or defendant subject to a protective order, child protective order, or ex parte child protective order:
 - (i) issued under:
 - (A) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;
 - (B) Title 80, Utah Juvenile Code;
 - (C) Part 6, Cohabitant Abuse Protective Orders; or
 - (D) Part 8, Criminal Protective Orders; or
 - (ii) enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.
 - (b) The court may grant a civil protective order to a petitioner described in Subsection (3)(a) if:
 - (i) the court determines that the requirements of Subsection (1) are met; and
 - (ii)
 - (A) the same court that issued the protective order, child protective order, or ex parte child protective order issues the civil protective order against the respondent; or
 - (B) if the matter is before a subsequent court, the subsequent court determines it would be impractical for the original court to consider the matter or confers with the court that issued the protective order, child protective order, or ex parte child protective order.

Amended by Chapter 159, 2021 General Session

Amended by Chapter 262, 2021 General Session

78B-7-109 Continuing duty to inform court of other proceedings -- Effect of other proceedings.

- (1) Each party has a continuing duty to inform the court of each proceeding for a civil protective order or a criminal protective order, any civil litigation, each proceeding in juvenile court, and each criminal case involving either party, including the case name, the file number, and the county and state of the proceeding, if that information is known by the party.
- (2)
 - (a) A civil protective order issued under this chapter is in addition to and not in lieu of any other available civil or criminal proceeding.
 - (b) A petitioner is not barred from seeking a civil protective order because of other pending proceedings.
 - (c) A court may not delay granting a civil protective order under this chapter because of the existence of a pending civil action between the parties.

- (3) A petitioner may omit the petitioner's address from all documents filed with the court under this chapter, but shall separately provide the court with a mailing address that is not to be made part of the public record, but that may be provided to a peace officer or entity for service of process.

Amended by Chapter 142, 2020 General Session

78B-7-112 Division of Child and Family Services -- Development and assistance of volunteer network.

- (1) The Division of Child and Family Services within the Department of Human Services shall, either directly or by contract:
- (a) develop a statewide network of volunteers and community resources to support, assist, and advocate on behalf of victims of domestic violence;
 - (b) train volunteers to provide clerical assistance to individuals seeking a civil protective order under this chapter;
 - (c) coordinate the provision of volunteer services with Utah Legal Services and the Legal Aid Society; and
 - (d) assist local government officials in establishing community based support systems for victims of domestic violence.
- (2) Volunteers shall provide additional nonlegal assistance to victims of domestic violence, including providing information on the location and availability of shelters and other community resources.

Amended by Chapter 142, 2020 General Session

78B-7-113 Statewide domestic violence network -- Peace officers' duties -- Prevention of abuse in absence of order -- Limitation of liability.

- (1)
- (a)
 - (i) Law enforcement units, the Department of Public Safety, and the Administrative Office of the Courts shall utilize statewide procedures to ensure that a peace officer at the scene of an alleged violation of a civil protective order or criminal protective order has immediate access to information necessary to verify the existence and terms of that order, and other orders of the court required to be made available on the network under this chapter, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, or Section 77-38-3.
 - (ii) The peace officers described in Subsection (1)(a)(i) shall use every reasonable means to enforce the court's order, in accordance with the requirements and procedures of this chapter, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, and Section 77-38-3.
 - (b) The Administrative Office of the Courts, in cooperation with the Department of Public Safety and the Criminal Investigations and Technical Services Division, established in Section 53-10-103, shall provide for a single, statewide network containing:
 - (i) all civil protective orders and criminal protective orders issued by a court of this state; and
 - (ii) all other court orders or reports of court action that are required to be available on the network under this chapter, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, and Section 77-38-3.
 - (c) The entities described in Subsection (1)(b) may utilize the same mechanism as the statewide warrant system, described in Section 53-10-208.
 - (d)

- (i) Except as provided in Subsection (1)(d)(ii), the Administrative Office of the Courts shall make all orders and reports required to be available on the network available within 24 hours after court action.
 - (ii) If the court that issued an order that is required to be available under Subsection (1)(d)(i) is not part of the state court computer system, the Administrative Office of the Courts shall make the order and report available on the network within 72 hours after court action.
 - (e) The Administrative Office of the Courts and the Department of Public Safety shall make the information contained in the network available to a court, law enforcement officer, or agency upon request.
- (2) When any peace officer has reason to believe a cohabitant or child of a cohabitant is being abused, or that there is a substantial likelihood of immediate danger of abuse, although no civil or criminal protective order has been issued, that officer shall use all reasonable means to prevent the abuse, including:
- (a) remaining on the scene as long as it reasonably appears there would otherwise be danger of abuse;
 - (b) making arrangements for the victim to obtain emergency medical treatment;
 - (c) making arrangements for the victim to obtain emergency housing or shelter care;
 - (d) explaining to the victim the victim's rights in these matters;
 - (e) asking the victim to sign a written statement describing the incident of abuse; or
 - (f) arresting and taking into physical custody the abuser in accordance with the provisions of Title 77, Chapter 36, Cohabitant Abuse Procedures Act.
- (3) No person or institution may be held criminally or civilly liable for the performance of, or failure to perform, any duty established by this chapter, so long as that person acted in good faith and without malice.

Amended by Chapter 142, 2020 General Session

78B-7-116 Full faith and credit for foreign protection orders.

- (1) A foreign protection order is enforceable in this state as provided in Title 78B, Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.
- (2)
- (a) A person entitled to protection under a foreign protection order may file the order in any district court by filing with the court a certified copy of the order. A filing fee may not be required.
 - (b) The person filing the foreign protection order shall swear under oath in an affidavit, that to the best of the person's knowledge the order is presently in effect as written and the respondent was personally served with a copy of the order.
 - (c) The affidavit described in Subsection (2)(b) shall be in the form adopted by the Administrative Office of the Courts, consistent with its responsibilities to develop and adopt forms under Section 78B-7-105.
 - (d) The court where a foreign protection order is filed shall transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113.
 - (e) Upon inquiry by a law enforcement agency, the clerk of the district court shall make a copy of the foreign protection order available.
 - (f) After a foreign protection order is filed, the district court shall furnish a certified copy of the order to the person who filed the order.
 - (g) A filed foreign protection order that is inaccurate or is not currently in effect shall be corrected or removed from the statewide domestic violence network described in Section 78B-7-113.

- (3) Law enforcement personnel may:
 - (a) rely upon a certified copy of any foreign protection order which has been provided to the peace officer by any source;
 - (b) rely on the statement of the person protected by the order that the order is in effect and the respondent was personally served with a copy of the order; or
 - (c) consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists.
- (4) A violation in Utah of a foreign protection order is subject to the same penalties as the violation of a protective order issued in Utah.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-117 Court order for transfer of wireless telephone number.

- (1) As used in this section, "wireless service provider" means a provider of commercial mobile service under Section 332(d) of the Federal Telecommunications Act of 1996.
- (2) At or after the time that a court issues a sentencing protective order or continuous protective order under Section 78B-7-804 or a cohabitant abuse protective order under Section 78B-7-603, the court may order the transfer of a wireless telephone number as provided in this section, if:
 - (a) the perpetrator is the account holder for the wireless telephone number;
 - (b) the number is assigned to a telephone that is primarily used by the victim or an individual who will reside with the victim during the time that the protective order or the order of protection is in effect; and
 - (c) the victim requests transfer of the wireless telephone number.
- (3) An order transferring a wireless telephone number under this section shall:
 - (a) direct a wireless service provider to transfer the rights to, and the billing responsibility for, the wireless telephone number to the victim; and
 - (b) include the wireless telephone number to be transferred, the name of the transferee, and the name of the account holder.
- (4) A wireless service provider shall comply with an order issued under this section, unless compliance is not reasonably possible due to:
 - (a) the account holder having already terminated the account;
 - (b) differences in network technology that prevent the victim's device from functioning on the network to which the number is to be transferred;
 - (c) geographic or other service availability constraints; or
 - (d) other barriers outside the control of the wireless service provider.
- (5) A wireless service provider that fails to comply with an order issued under this section shall, within four business days after the day on which the wireless service provider receives the order, provide notice to the victim stating:
 - (a) that the wireless service provider is not able to reasonably comply with the order; and
 - (b) the reason that the wireless service provider is not able to reasonably comply with the order.
- (6) The victim has full financial responsibility for each wireless telephone number transferred to the victim by an order under this section, beginning on the day on which the wireless telephone number is transferred, including monthly service costs and costs for any mobile device associated with the wireless telephone number.
- (7) This section does not preclude a wireless service provider from applying standard requirements for account establishment to the victim when transferring financial responsibility under Subsection (6).

- (8) A wireless service provider, and any officer, employee, or agent of the wireless service provider, is not civilly liable for action taken in compliance with an order issued under this section.

Renumbered and Amended by Chapter 142, 2020 General Session

78B-7-118 Construction with Utah Rules of Civil Procedure.

To the extent the provisions of this chapter are more specific than the Utah Rules of Civil Procedure regarding a civil protective order the provisions of this chapter govern.

Amended by Chapter 4, 2020 Special Session 5

78B-7-119 Duties of law enforcement -- Enforcement.

A law enforcement officer shall, without a warrant, arrest an alleged perpetrator whenever there is probable cause to believe that the alleged perpetrator has violated any of the provisions of any of the following that has been served on the alleged perpetrator:

- (1) an ex parte civil protective order;
- (2) a civil protective order;
- (3) an ex parte civil stalking injunction;
- (4) a civil stalking injunction;
- (5) a criminal protective order;
- (6) a permanent criminal stalking injunction; or
- (7) a foreign protective order enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act .

Enacted by Chapter 142, 2020 General Session

78B-7-120 Law enforcement -- Training -- Domestic violence -- Lethality assessments.

- (1) The Department of Public Safety shall develop training in domestic violence responses and lethality assessment protocols, which include the following:
 - (a) recognizing the symptoms of domestic violence and trauma;
 - (b) an evidence-based assessment to identify victims of domestic violence who may be at a high risk of being killed by a perpetrator;
 - (c) lethality assessment protocols and interviewing techniques, including indicators of strangulation;
 - (d) responding to the needs and concerns of a victim of domestic violence;
 - (e) delivering services to victims of domestic violence in a compassionate, sensitive, and professional manner; and
 - (f) understanding cultural perceptions and common myths of domestic violence.
- (2) The department shall develop and offer an online training course in domestic violence issues to all certified law enforcement officers in the state.
- (3) Training in domestic violence issues shall be incorporated into training offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer.
- (4) The department shall develop specific training curriculums that meet the requirements of this section, including:
 - (a) response to domestic violence incidents, including trauma-informed and victim-centered interview techniques;

- (b) lethality assessment protocols which have been demonstrated to minimize retraumatizing victims; and
- (c) standards for report writing.
- (5) The Department of Public Safety, in partnership with the Division of Child and Family Services and the Commission on Criminal and Juvenile Justice, shall work to identify aggregate domestic violence data to include:
 - (a) lethality assessments;
 - (b) the prevalence of stalking;
 - (c) strangulation;
 - (d) violence in the presence of children; and
 - (e) threats of suicide or homicide.
- (6) The Department of Public Safety, with support from the Commission on Criminal and Juvenile Justice and the Division of Child and Family Services shall provide recommendations to the Law Enforcement and Criminal Justice Interim Committee not later than July 31 of each year and in the commission's annual report required by Section 63M-7-205.

Enacted by Chapter 180, 2021 General Session

Part 2

Child Protective Orders

78B-7-201 Definitions.

As used in this chapter:

- (1) "Abuse" means:
 - (a) physical abuse;
 - (b) sexual abuse;
 - (c) any sexual offense described in Title 76, Chapter 5b, Part 2, Sexual Exploitation; or
 - (d) human trafficking of a child for sexual exploitation under Section 76-5-308.5.
- (2) "Child protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.
- (3) "Court" means the district court or juvenile court.
- (4) "Ex parte child protective order" means an order issued without notice to the respondent under this part.
- (5) "Protective order" means:
 - (a) a child protective order; or
 - (b) an ex parte child protective order.
- (6) All other terms have the same meaning as defined in Section 80-1-102.

Amended by Chapter 262, 2021 General Session

78B-7-202 Abuse or danger of abuse -- Child protective orders -- Ex parte child protective orders -- Guardian ad litem -- Referral to division.

- (1)
 - (a) Any interested person may file a petition for a protective order:
 - (i) on behalf of a child who is being abused or is in imminent danger of being abused by any individual; or

- (ii) on behalf of a child who has been abused by an individual who is not the child's parent, stepparent, guardian, or custodian.
- (b) Before filing a petition under Subsection (1)(a), the interested person shall make a referral to the division.
- (2) Upon the filing of a petition described in Subsection (1), the clerk of the court shall:
 - (a) review the records of the juvenile court, the district court, and the management information system of the division to find any petitions, orders, or investigations related to the child or the parties to the case;
 - (b) request the records of any law enforcement agency identified by the petitioner as having investigated abuse of the child; and
 - (c) identify and obtain any other background information that may be of assistance to the court.
- (3) If it appears from a petition for a protective order filed under Subsection (1)(a)(i) that the child is being abused or is in imminent danger of being abused, or it appears from a petition for a protective order filed under Subsection (1)(a)(ii) that the child has been abused, the court may:
 - (a) without notice, immediately issue an ex parte child protective order against the respondent if necessary to protect the child; or
 - (b) upon notice to the respondent, issue a child protective order after a hearing in accordance with Subsection 78B-7-203(5).
- (4) The court may appoint an attorney guardian ad litem under Sections 78A-2-703 and 78A-2-803.
- (5) This section does not prohibit a protective order from being issued against a respondent who is a child.

Amended by Chapter 262, 2021 General Session

78B-7-203 Hearings.

- (1)
 - (a) If an ex parte child protective order is granted, the court shall schedule a hearing to be held within 21 days after the day on which the court makes the ex parte determination.
 - (b) If an ex parte child protective order is denied, the court, upon the request of the petitioner made within five days after the day on which the court makes the ex parte determination, shall schedule a hearing to be held within 21 days after the day on which the petitioner makes the request.
- (2)
 - (a) The petition, ex parte child protective order, and notice of hearing shall be served on the respondent, the child's parent or guardian, and, if appointed, the guardian ad litem.
 - (b) The notice of hearing described in Subsection (2)(a) shall contain:
 - (i) the name and address of the individual to whom the notice is directed;
 - (ii) the date, time, and place of the hearing;
 - (iii) the name of the child on whose behalf a petition is being brought; and
 - (iv) a statement that an individual is entitled to have an attorney present at the hearing.
- (3) The court shall provide an opportunity for any person having relevant knowledge to present evidence or information and may hear statements by counsel.
- (4) An agent of the division served with a subpoena in compliance with the Utah Rules of Civil Procedure shall testify in accordance with the Utah Rules of Evidence.
- (5) The court shall issue a child protective order if the court determines, based on a preponderance of the evidence, that:
 - (a) for a petition for a child protective order filed under Subsection 78B-7-202(1)(a)(i), the child is being abused or is in imminent danger of being abused; or

- (b) for a petition for a protective order filed under Subsection 78B-7-202(1)(a)(ii), the child has been abused and the child protective order is necessary to protect the child.
- (6) Except as provided in Section 80-3-404, a child protective order is not an adjudication of abuse, neglect, or dependency under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings.

Amended by Chapter 159, 2021 General Session

Amended by Chapter 262, 2021 General Session

78B-7-204 Content of orders -- Modification of orders -- Penalties.

- (1) A child protective order or an ex parte child protective order may contain the following provisions the violation of which is a class A misdemeanor under Section 76-5-108:
 - (a) enjoin the respondent from threatening to commit or committing abuse of the child;
 - (b) prohibit the respondent from harassing, telephoning, contacting, or otherwise communicating with the child, directly or indirectly;
 - (c) prohibit the respondent from entering or remaining upon the residence, school, or place of employment of the child and the premises of any of these or any specified place frequented by the child;
 - (d) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the child, prohibit the respondent from purchasing, using, or possessing a firearm or other specified weapon; and
 - (e) determine ownership and possession of personal property and direct the appropriate law enforcement officer to attend and supervise the petitioner's or respondent's removal of personal property.
- (2) A child protective order or an ex parte child protective order may contain the following provisions the violation of which is contempt of court:
 - (a) determine temporary custody of the child who is the subject of the petition;
 - (b) determine parent-time with the child who is the subject of the petition, including denial of parent-time if necessary to protect the safety of the child, and require supervision of parent-time by a third party;
 - (c) determine support in accordance with Title 78B, Chapter 12, Utah Child Support Act; and
 - (d) order any further relief the court considers necessary to provide for the safety and welfare of the child.
- (3)
 - (a) If the child who is the subject of the child protective order attends the same school or place of worship as the respondent, or is employed at the same place of employment as the respondent, the court:
 - (i) may not enter an order under Subsection (1)(c) that excludes the respondent from the respondent's school, place of worship, or place of employment; and
 - (ii) may enter an order governing the respondent's conduct at the respondent's school, place of worship, or place of employment.
 - (b) A violation of an order under Subsection (3)(a) is contempt of court.
- (4)
 - (a) A respondent may petition the court to modify or vacate a child protective order after notice and a hearing.
 - (b) At the hearing described in Subsection (4)(a):
 - (i) the respondent shall have the burden of proving by clear and convincing evidence that modification or vacation of the child protective order is in the best interest of the child; and

- (ii) the court shall consider:
 - (A) the nature and duration of the abuse;
 - (B) the pain and trauma inflicted on the child as a result of the abuse;
 - (C) if the respondent is a parent of the child, any reunification services provided in accordance with Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings; and
 - (D) any other evidence the court finds relevant to the determination of the child's best interests, including recommendations by the other parent or a guardian of the child, or a mental health professional.
- (c) The child is not required to attend the hearing described in Subsection (4)(a).

Amended by Chapter 262, 2021 General Session

78B-7-205 Service -- Income withholding -- Expiration.

- (1) If the court enters an ex parte child protective order or a child protective order, the court shall:
 - (a) make reasonable efforts to ensure that the order is understood by the petitioner and the respondent, if present;
 - (b) as soon as possible transmit the order to the county sheriff for service; and
 - (c) by the end of the next business day after the order is entered, transmit electronically a copy of the order to any law enforcement agency designated by the petitioner and to the statewide domestic violence network described in Section 78B-7-113.
- (2) The county sheriff shall serve the order and transmit verification of service to the statewide domestic violence network described in Section 78B-7-113 in an expeditious manner. Any law enforcement agency may serve the order and transmit verification of service to the statewide domestic violence network if the law enforcement agency has contact with the respondent or if service by that law enforcement agency is in the best interests of the child.
- (3) When an order is served on a respondent in a jail, prison, or other holding facility, the law enforcement agency managing the facility shall notify the petitioner of the respondent's release. Notice to the petitioner consists of a prompt, good faith effort to provide notice, including mailing the notice to the petitioner's last-known address.
- (4) Child support orders issued as part of a child protective order are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases.
- (5)
 - (a) A child protective order issued against a respondent who is a parent, stepparent, guardian, or custodian of the child who is the subject of the order expires 150 days after the day on which the order is issued unless a different date is set by the court.
 - (b) The court may not set a date on which a child protective order described in Subsection (5)(a) expires that is more than 150 days after the day on which the order is issued without a finding of good cause.
 - (c) The court may review and extend the expiration date of a child protective order described in Subsection (5)(a), but may not extend the expiration date more than 150 days after the day on which the order is issued without a finding of good cause.
 - (d) Notwithstanding Subsections (5)(a) through (c), a child protective order is not effective after the day on which the child who is the subject of the order turns 18 years old and the court may not extend the expiration date of a child protective order to a date after the day on which the child who is the subject of the order turns 18 years old.

- (6) A child protective order issued against a respondent who is not a parent, stepparent, guardian, or custodian of the child who is the subject of the order expires on the day on which the child turns 18 years old.

Amended by Chapter 142, 2020 General Session

78B-7-206 Statewide domestic violence network.

The Administrative Office of the Courts, in cooperation with the Department of Public Safety and the Criminal Investigations and Technical Services Division, shall post ex parte child protective orders, child protective orders, and any modifications to them on the statewide network established in Section 78B-7-113.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-207 Forms and assistance -- No fees.

- (1) The Administrative Office of the Courts shall adopt and make available uniform forms for petitions and orders conforming to this part. The forms shall notify the petitioner that:
- (a) a knowing falsehood in any statement under oath may subject the petitioner to felony prosecution;
 - (b) the petitioner may provide a copy of the order to the principal of the minor's school; and
 - (c) the petitioner may enforce a court order through the court if the respondent violates or fails to comply with a provision of the order.
- (2) If the petitioner is not represented, the clerk of the court shall provide, directly or through an agent:
- (a) the forms adopted pursuant to Subsection (1);
 - (b) clerical assistance in completing the forms and filing the petition;
 - (c) information regarding means for service of process;
 - (d) a list of organizations with telephone numbers that may represent the petitioner; and
 - (e) information regarding the procedure for transporting a jailed or imprisoned respondent to hearings, including transportation order forms when necessary.
- (3) No fee may be imposed by a court, constable, or law enforcement agency for:
- (a) filing a petition under this chapter;
 - (b) obtaining copies necessary for service or delivery to law enforcement officials; or
 - (c) service of a petition, ex parte child protective order, or child protective order.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 3

Uniform Interstate Enforcement of Domestic Violence Protection Orders Act

78B-7-301 Title.

This part is known as the "Uniform Interstate Enforcement of Domestic Violence Protection Orders Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-302 Definitions.

As used in this part:

- (1) "Foreign protection order" means a protection order issued by a tribunal of another state.
- (2) "Issuing state" means the state whose tribunal issues a protection order.
- (3) "Mutual foreign protection order" means a foreign protection order that includes provisions in favor of both the protected individual seeking enforcement of the order and the respondent.
- (4) "Protected individual" means an individual protected by a protection order.
- (5) "Protection order" means an injunction or other order, issued by a tribunal under the domestic violence, family-violence, or anti-stalking laws of the issuing state, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to, another individual.
- (6) "Respondent" means the individual against whom enforcement of a protection order is sought.
- (7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band that has jurisdiction to issue protection orders.
- (8) "Tribunal" means a court, agency, or other entity authorized by law to issue or modify a protection order.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-303 Judicial enforcement of order.

- (1) A person authorized by the law of this state to seek enforcement of a protection order may seek enforcement of a valid foreign protection order in a tribunal of this state. The tribunal shall enforce the terms of the order, including terms that provide relief that a tribunal of this state would lack power to provide but for this section. The tribunal shall enforce the order, whether the order was obtained by independent action or in another proceeding, if it is an order issued in response to a complaint, petition, or motion filed by or on behalf of an individual seeking protection. In a proceeding to enforce a foreign protection order, the tribunal shall follow the procedures of this state for the enforcement of protection orders.
- (2) A tribunal of this state may not enforce a foreign protection order issued by a tribunal of a state that does not recognize the standing of a protected individual to seek enforcement of the order.
- (3) A tribunal of this state shall enforce the provisions of a valid foreign protection order which govern custody and visitation, if the order was issued in accordance with the jurisdictional requirements governing the issuance of custody and visitation orders in the issuing state.
- (4) A foreign protection order is valid if it:
 - (a) identifies the protected individual and the respondent;
 - (b) is currently in effect;
 - (c) was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing state; and
 - (d) was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order or, in the case of an order ex parte, the respondent was given notice and has had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the rights of the respondent to due process.
- (5) A foreign protection order valid on its face is prima facie evidence of its validity.
- (6) Absence of any of the criteria for validity of a foreign protection order is an affirmative defense in an action seeking enforcement of the order.

- (7) A tribunal of this state may enforce provisions of a mutual foreign protection order which favor a respondent only if:
- (a) the respondent filed a written pleading seeking a protection order from the tribunal of the issuing state; and
 - (b) the tribunal of the issuing state made specific findings in favor of the respondent.
- (8)
- (a) The juvenile court has jurisdiction to enforce foreign protection orders under this section over which the juvenile court would have had jurisdiction if the order had been originally sought in this state.
 - (b) The district court has jurisdiction to enforce foreign protection orders under this section:
 - (i) over which the district court would have had jurisdiction if the order had been originally sought in this state; or
 - (ii) that are not under the jurisdiction of the juvenile court under Subsection (8)(a).

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-304 Nonjudicial enforcement of order.

- (1) A law enforcement officer of this state, upon determining that there is probable cause to believe that a valid foreign protection order exists and that the order has been violated, shall enforce the order as if it were the order of a tribunal of this state. Presentation of a protection order that identifies both the protected individual and the respondent and, on its face, is currently in effect constitutes probable cause to believe that a valid foreign protection order exists. For the purposes of this section, the protection order may be inscribed on a tangible medium or may have been stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of a protection order is not required for enforcement.
- (2) If a foreign protection order is not presented, a law enforcement officer of this state may consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists.
- (3) If a law enforcement officer of this state determines that an otherwise valid foreign protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order, make a reasonable effort to serve the order upon the respondent, and allow the respondent a reasonable opportunity to comply with the order before enforcing the order.
- (4) Registration or filing of an order in this state is not required for the enforcement of a valid foreign protection order pursuant to this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-305 Registration of order.

Any individual may register a foreign protection order in this state under Section 78B-7-116.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-306 Immunity.

This state or a local governmental agency, or a law enforcement officer, prosecuting attorney, clerk of court, or any state or local governmental official acting in an official capacity, is immune from civil and criminal liability for an act or omission arising out of the registration or enforcement

of a foreign protection order or the detention or arrest of an alleged violator of a foreign protection order if the act or omission was done in good faith in an effort to comply with this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-307 Other remedies.

A protected individual who pursues remedies under this part is not precluded from pursuing other legal or equitable remedies against the respondent.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-308 Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-309 Severability clause.

If any provision of this part or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this part which can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-310 Transitional provision.

This part applies to protection orders issued before July 1, 2006 and to continuing actions for enforcement of foreign protection orders commenced before July 1, 2006. A request for enforcement of a foreign protection order made on or after July 1, 2006 for violations of a foreign protection order occurring before July 1, 2006 is governed by this part.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 4

Dating Violence Protective Orders

78B-7-402 Definitions.

As used in this part:

- (1) "Dating violence protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.
- (2) "Ex parte dating violence protective order" means an order issued without notice to the respondent under this part.
- (3) "Protective order" means:
 - (a) a dating violence protective order; or
 - (b) an ex parte dating violence protective order.

Amended by Chapter 142, 2020 General Session

78B-7-403 Abuse or danger of abuse -- Dating violence protective orders.

- (1) An individual may seek a protective order if the individual is subjected to, or there is a substantial likelihood the individual will be subjected to:
 - (a) abuse by a dating partner of the individual; or
 - (b) dating violence by a dating partner of the individual.
- (2) An individual may seek an order described in Subsection (1) whether or not the individual has taken other action to end the relationship.
- (3) An individual seeking a protective order may include another party in the petition for a protective order if:
 - (a) the individual seeking the order meets the requirements of Subsection (1); and
 - (b) the other party:
 - (i) is a family or household member of the individual seeking the protective order; and
 - (ii) there is a substantial likelihood the other party will be subjected to abuse by the dating partner of the individual.
- (4) An individual seeking a protective order under this part shall, to the extent possible, provide information to facilitate identification of the respondent, including a name, social security number, driver license number, date of birth, address, telephone number, and physical description.
- (5) A petition seeking a protective order under this part may not be withdrawn without written order of the court.
- (6)
 - (a) An individual may not seek a protective order against an intimate partner of the individual under this part.
 - (b) An individual may seek a protective order against a cohabitant or an intimate partner of the individual under Part 6, Cohabitant Abuse Protective Orders.

Amended by Chapter 142, 2020 General Session

78B-7-404 Dating violence protective orders -- Ex parte dating violence protective orders -- Modification of orders -- Service of process -- Duties of the court.

- (1) If it appears from a petition for a protective order or a petition to modify an existing protective order that a dating partner of the petitioner has abused or committed dating violence against the petitioner, the court may:
 - (a) without notice, immediately issue an ex parte dating violence protective order against the dating partner or modify an existing dating protective order ex parte if necessary to protect the petitioner and all parties named in the petition; or
 - (b) upon notice to the respondent, issue a dating violence protective order or modify a dating violence protective order after a hearing, regardless of whether the respondent appears.
- (2) A court may grant the following relief without notice in a dating violence protective order or a modification issued ex parte:
 - (a) prohibit the respondent from threatening to commit or committing dating violence or abuse against the petitioner and any designated family or household member described in the protective order;
 - (b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly;
 - (c) order that the respondent:
 - (i) is excluded and shall stay away from the petitioner's residence and its premises;

- (ii) except as provided in Subsection (4), stay away from the petitioner's:
 - (A) school and the school's premises; and
 - (B) place of employment and its premises; and
 - (iii) stay away from any specified place frequented by the petitioner or any designated family or household member;
 - (d) prohibit the respondent from being within a specified distance of the petitioner; and
 - (e) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member.
- (3) A court may grant the following relief in a dating violence protective order or a modification of a dating violence protective order, after notice and a hearing, regardless of whether the respondent appears:
 - (a) the relief described in Subsection (2); and
 - (b) except as provided in Subsection (5), upon finding that the respondent's use or possession of a weapon poses a serious threat of harm to the petitioner or any designated family or household member, prohibit the respondent from purchasing, using, or possessing a weapon specified by the court.
- (4) If the petitioner or a family or household member designated in the protective order attends the same school as the respondent, or is employed at the same place of employment as the respondent, the district court:
 - (a) may not enter an order under Subsection (2)(c)(ii) that excludes the respondent from the respondent's school or place of employment; and
 - (b) may enter an order governing the respondent's conduct at the respondent's school or place of employment.
- (5) The court may not prohibit the respondent from possessing a firearm:
 - (a) if the respondent has not been given notice of the petition for a protective order and an opportunity to be heard; and
 - (b) unless the petition establishes:
 - (i) by a preponderance of the evidence that the respondent has committed abuse or dating violence against the petitioner; and
 - (ii) by clear and convincing evidence that the respondent's use or possession of a firearm poses a serious threat of harm to petitioner or the designated family or household member.
- (6) After the court issues a dating violence protective order, the court shall:
 - (a) as soon as possible, deliver the order to the county sheriff for service of process;
 - (b) make reasonable efforts at the hearing to ensure that the dating violence protective order is understood by the petitioner and the respondent, if present;
 - (c) transmit electronically, by the end of the business day after the day on which the order is issued, a copy of the dating violence protective order to the local law enforcement agency designated by the petitioner; and
 - (d) transmit a copy of the protective order issued under this part in the same manner as described in Section 78B-7-113.
- (7)
 - (a) The county sheriff that receives the order from the court, under Subsection (6)(a), shall:
 - (i) provide expedited service for protective orders issued in accordance with this part; and
 - (ii) after the order has been served, transmit verification of service of process to the statewide network described in Section 78B-7-113.
 - (b) This section does not prohibit another law enforcement agency from providing service of process if that law enforcement agency:
 - (i) has contact with the respondent and service by that law enforcement agency is possible; or

- (ii) determines that, under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.
- (8) When a protective order is served on a respondent in jail, or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.
- (9) A court may modify or vacate a protective order under this part after notice and hearing, if the petitioner:
 - (a) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and appears before the court to give specific consent to the modification or vacation of the provisions of the protective order; or
 - (b) submits an affidavit agreeing to the modification or vacation of the provisions of the protective order.

Amended by Chapter 142, 2020 General Session

78B-7-405 Hearings -- Expiration -- Extension.

- (1)
 - (a) The court shall set a date for a hearing on the petition for a dating violence protective order to be held within 21 days after the day on which the court issues an ex parte dating violence protective order.
 - (b) If, at the hearing described in Subsection (1)(a), the court does not issue a dating violence protective order, the ex parte dating protective order shall expire, unless extended by the court.
 - (c)
 - (i) The court may extend the 21-day period described in Subsection (1)(a) only if:
 - (A) the petitioner is unable to be present at the hearing;
 - (B) the respondent has not been served; or
 - (C) exigent circumstances exist.
 - (ii) Under no circumstances may an ex parte dating violence protective order be extended beyond 180 days from the day on which the court issues the initial ex parte dating violence protective order.
 - (d) If, at the hearing described in Subsection (1)(a), the court issues a dating violence protective order, the ex parte dating violence protective order shall remain in effect until service of process of the dating violence protective order is completed.
 - (e) A dating violence protective order remains in effect for three years after the day on which the court issues the order.
 - (f) If the hearing described in Subsection (1)(a) is held by a commissioner, the petitioner or respondent may file an objection within 14 calendar days after the day on which the commissioner recommends the order, and, if the petitioner or respondent requests a hearing be held, the assigned judge shall hold a hearing on the objection within 21 days after the day on which the objection is filed.
- (2) Upon a hearing under this section, the court may grant any of the relief permitted under Section 78B-7-404, except the court shall not grant the relief described in Subsection 78B-7-404(3)(b) without providing the respondent notice and an opportunity to be heard.
- (3) If the court denies a petition for an ex parte dating violence protective order or a petition to modify a dating violence protective order ex parte, the court shall, upon the petitioner's request made within five days after the day on which the court denies the petition:

- (a) set the matter for a hearing to be held within 21 days after the day on which the petitioner makes the request; and
 - (b) notify and serve the respondent.
- (4)
- (a) A dating violence protective order automatically expires under Subsection (1)(e), unless the petitioner files a motion before the day on which the dating violence protective order expires requesting an extension of the dating violence protective order and demonstrates that:
 - (i) there is a substantial likelihood the petitioner will be subjected to dating violence; or
 - (ii) the respondent committed or was convicted of a violation of the dating violence protective order that the petitioner requests be extended or dating violence after the day on which the dating violence protective order is issued.
 - (b)
 - (i) If the court denies the motion described in Subsection (4)(a), the dating violence protective order expires under Subsection (1)(e).
 - (ii) If the court grants the motion described in Subsection (4)(a), the court shall set a new date on which the dating violence protective order expires.

Amended by Chapter 159, 2021 General Session

78B-7-407 Penalties.

A violation of a protective order issued under this part is a class A misdemeanor.

Amended by Chapter 142, 2020 General Session

78B-7-408 Duties of law enforcement officers -- Notice to victims.

- (1) A law enforcement officer who responds to an allegation of dating violence shall use all reasonable means to protect the victim and prevent further violence, including:
- (a) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;
 - (b) confiscating the weapon or weapons involved in the alleged dating violence;
 - (c) making arrangements for the victim and any child to obtain emergency housing or shelter;
 - (d) providing protection while the victim removes essential personal effects;
 - (e) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and
 - (f) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of dating violence, in accordance with Subsection (2).
- (2)
- (a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this chapter.
 - (b) The written notice shall also include:
 - (i) a statement that the forms needed in order to obtain a protective order are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and
 - (ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

- (3) If a weapon is confiscated under this section, the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a dating protective order is not issued or once the dating protective order is terminated.

Amended by Chapter 159, 2021 General Session

78B-7-409 Mutual dating violence protective orders.

- (1) A court may not grant a mutual order or mutual dating violence protective orders to opposing parties, unless each party:
- (a) files an independent petition against the other for a dating violence protective order, and both petitions are served;
 - (b) makes a showing at a due process dating violence protective order hearing of abuse or dating violence committed by the other party; and
 - (c) demonstrates the abuse or dating violence did not occur in self-defense.
- (2) If the court issues mutual dating violence protective orders, the court shall include specific findings of all elements of Subsection (1) in the court order justifying the entry of the court order.
- (3)
- (a) Except as provided in Subsection (3)(b), a court may not grant a protective order to a civil petitioner who is the respondent or defendant subject to:
 - (i) a civil protective order that is issued under:
 - (A) this part;
 - (B) Part 2, Child Protective Orders;
 - (C) Part 6, Cohabitant Abuse Protective Orders;
 - (D) Part 8, Criminal Protective Orders; or
 - (E) Title 80, Utah Juvenile Code;
 - (ii) an ex parte civil protective order issued under Part 2, Child Protective Orders; or
 - (iii) a foreign protection order enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.
 - (b) The court may issue a protective order to a civil petitioner described in Subsection (3)(a) if:
 - (i) the court determines that the requirements of Subsection (1) are met; and
 - (ii)
 - (A) the same court issued the protective order against the respondent; or
 - (B) the subsequent court determines it would be impractical for the original court to consider the matter or confers with the court that issued the protective order described in Subsection (3)(a)(i) or (ii).

Amended by Chapter 262, 2021 General Session

Part 5
Sexual Violence Protective Orders

78B-7-502 Definitions.

As used in this part:

- (1) "Ex parte sexual violence protective order" means an order issued without notice to the respondent under this part.

- (2) "Protective order" means:
 - (a) a sexual violence protective order; or
 - (b) an ex parte sexual violence protective order.
- (3) "Sexual violence" means the commission or the attempt to commit:
 - (a) any sexual offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Part 2, Sexual Exploitation;
 - (b) human trafficking for sexual exploitation under Section 76-5-308; or
 - (c) aggravated human trafficking for forced sexual exploitation under Section 76-5-310.
- (4) "Sexual violence protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.

Amended by Chapter 108, 2020 General Session

Amended by Chapter 142, 2020 General Session

78B-7-503 Sexual violence -- Sexual violence protective orders.

- (1)
 - (a) An individual may seek a protective order under this part if the individual has been subjected to sexual violence and is neither a cohabitant nor a dating partner of the respondent.
 - (b) An individual may not seek a protective order on behalf of a child under this part.
- (2) A petition seeking a sexual violence protective order may not be withdrawn without written order of the court.

Enacted by Chapter 365, 2019 General Session

78B-7-504 Sexual violence protective orders -- Ex parte protective orders -- Modification of orders.

- (1) If it appears from a petition for a protective order or a petition to modify an existing protective order that sexual violence has occurred, the district court may:
 - (a) without notice, immediately issue an ex parte sexual violence protective order against the respondent or modify an existing sexual violence protective order ex parte, if necessary to protect the petitioner or any party named in the petition; or
 - (b) upon notice to the respondent, issue a sexual violence protective order or modify a sexual violence protective order after a hearing, regardless of whether the respondent appears.
- (2) The district court may grant the following relief with or without notice in a protective order or in a modification to a protective order:
 - (a) prohibit the respondent from threatening to commit or committing sexual violence against the petitioner and a family or household member designated in the protective order;
 - (b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or a family or household member designated in the protective order, directly or indirectly;
 - (c) order that the respondent:
 - (i) is excluded and shall stay away from the petitioner's residence and its premises;
 - (ii) subject to Subsection (4), stay away from the petitioner's:
 - (A) school and its premises;
 - (B) place of employment and its premises; or
 - (C) place of worship and its premises; or
 - (iii) stay away from any specified place frequented by the petitioner or a family or household member designated in the protective order;

- (d) prohibit the respondent from being within a specified distance of the petitioner; or
 - (e) order any further relief that the district court considers necessary to provide for the safety and welfare of the petitioner and a family or household member designated in the protective order.
- (3) The district court may grant the following relief in a sexual violence protective order or a modification of a sexual violence protective order, after notice and a hearing, regardless of whether the respondent appears:
- (a) the relief described in Subsection (2); and
 - (b) subject to Subsection (5), upon finding that the respondent's use or possession of a weapon poses a serious threat of harm to the petitioner or a family or household member designated in the protective order, prohibit the respondent from purchasing, using, or possessing a weapon specified by the district court.
- (4) If the petitioner or a family or household member designated in the protective order attends the same school as the respondent, is employed at the same place of employment as the respondent, or attends the same place of worship as the respondent, the court may enter an order:
- (a) that excludes the respondent from the respondent's school, place of employment, or place of worship; or
 - (b) governing the respondent's conduct at the respondent's school, place of employment, or place of worship.
- (5) The district court may not prohibit the respondent from possessing a firearm:
- (a) if the respondent has not been given notice of the petition for a protective order and an opportunity to be heard; and
 - (b) unless the petition establishes:
 - (i) by a preponderance of the evidence that the respondent committed sexual violence against the petitioner; and
 - (ii) by clear and convincing evidence that the respondent's use or possession of a firearm poses a serious threat of harm to the petitioner or a family or household member designated in the protective order.
- (6) After the day on which the district court issues a sexual violence protective order, the district court shall:
- (a) as soon as possible, deliver the order to the county sheriff for service of process;
 - (b) make reasonable efforts at the hearing to ensure that the petitioner and the respondent, if present, understand the sexual violence protective order;
 - (c) transmit electronically, by the end of the business day after the day on which the court issues the order, a copy of the sexual violence protective order to a local law enforcement agency designated by the petitioner; and
 - (d) transmit a copy of the sexual violence protective order in the same manner as described in Section 78B-7-113.
- (7)
- (a) A respondent may request the court modify or vacate a protective order in accordance with Subsection (7)(b).
 - (b) Upon a respondent's request, the district court may modify or vacate a protective order after notice and a hearing, if the petitioner:
 - (i) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and appears before the district court to give specific consent to the modification or vacation of the provisions of the protective order; or
 - (ii) submits an affidavit agreeing to the modification or vacation of the provisions of the protective order.

Amended by Chapter 142, 2020 General Session

78B-7-505 Hearings -- Expiration -- Extension.

- (1)
- (a) The court shall set a date for a hearing on the petition for a sexual violence protective order to be held within 21 days after the day on which the court issues an ex parte protective order.
 - (b) If, at the hearing described in Subsection (1)(a), the court does not issue a sexual violence protective order, the ex parte sexual protective order expires, unless extended by the court.
 - (c) The court may extend the 21-day period described in Subsection (1)(a) only if:
 - (i) a party is unable to be present at the hearing for good cause, established by the party's sworn affidavit;
 - (ii) the respondent has not been served; or
 - (iii) exigent circumstances exist.
 - (d) If, at the hearing described in Subsection (1)(a), the court issues a sexual violence protective order, the ex parte sexual violence protective order remains in effect until service of process of the sexual violence protective order is completed.
 - (e) A sexual violence protective order remains in effect for three years after the day on which the court issues the order.
 - (f) If the hearing described in Subsection (1)(a) is held by a commissioner, the petitioner or respondent may file an objection within 14 calendar days after the day on which the commissioner recommends the order, and, if the petitioner or respondent requests a hearing be held, the assigned judge shall hold a hearing on the objection within 21 days after the day on which the objection is filed.
- (2) If the court denies a petition for an ex parte sexual violence protective order or a petition to modify a sexual violence protective order ex parte, the court shall, upon the petitioner's request made within five days after the day on which the court denies the petition:
- (a) set the matter for hearing to be held within 21 days after the day on which the petitioner makes the request; and
 - (b) notify and serve the respondent.
- (3)
- (a) A sexual violence protective order automatically expires under Subsection (1)(e) unless the petitioner files a motion before the day on which the sexual violence protective order expires requesting an extension of the sexual violence protective order and demonstrates that:
 - (i) there is a substantial likelihood the petitioner will be subjected to sexual violence; or
 - (ii) the respondent committed or was convicted of a violation of the sexual violence protective order that the petitioner requests be extended or a sexual violence offense after the day on which the sexual violence protective order is issued.
 - (b)
 - (i) If the court denies the motion described in Subsection (3)(a), the sexual violence protective order expires under Subsection (1)(e).
 - (ii) If the court grants the motion described in Subsection (3)(a), the court shall set a new date on which the sexual violence protective order expires.
 - (iii) A sexual violence protective order that is extended under this Subsection (3), may not be extended for more than three years after the day on which the court issues the order for extension.
 - (c) After the day on which the court issues an extension of a sexual violence protective order, the court shall take the action described in Subsection 78B-7-504(6).

- (4) Nothing in this part prohibits a petitioner from seeking another protective order after the day on which the petitioner's protective order expires.

Amended by Chapter 159, 2021 General Session

78B-7-506 Service of process.

- (1)
- (a) The county sheriff that receives an order from the court under Subsection 78B-7-504(6) or 78B-7-505(3) shall:
 - (i) provide expedited service for the sexual violence protective order; and
 - (ii) after the sexual violence protective order is served, transmit verification of service of process to the statewide network described in Section 78B-7-113.
 - (b) This section does not prohibit another law enforcement agency from providing service of process if the law enforcement agency:
 - (i) has contact with the respondent; or
 - (ii) determines that, under the circumstances, providing service of process on the respondent is in the best interest of the petitioner.
- (2) When a sexual violence protective order is served on a respondent in jail, or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

Enacted by Chapter 365, 2019 General Session

78B-7-508 Penalties.

- (1) A violation of a protective order issued under this part is a class A misdemeanor.
- (2) A petitioner may be subject to criminal prosecution under Title 76, Chapter 8, Part 5, Falsification in Official Matters, for knowingly falsifying any statement or information provided for the purpose of obtaining a protective order.

Amended by Chapter 142, 2020 General Session

78B-7-509 Duties of law enforcement officers -- Notice to victims.

- (1) A law enforcement officer who responds to an allegation of sexual violence shall use all reasonable means to protect the victim and prevent further sexual violence, including:
- (a) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;
 - (b) making arrangements for the victim and any child to obtain emergency housing or shelter;
 - (c) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and
 - (d) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of the victim and of the remedies and services available to victims of sexual violence, in accordance with Subsection (2).
- (2)
- (a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this part.
 - (b) The written notice shall also include:

- (i) a statement that the forms needed in order to obtain a protective order are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and
- (ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

Enacted by Chapter 365, 2019 General Session

Part 6

Cohabitant Abuse Protective Orders

78B-7-601 Definitions.

As used in this part:

- (1) "Cohabitant abuse protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.
- (2) "Ex parte cohabitant abuse protective order" means an order issued without notice to the respondent under this part.
- (3) "Protective order" means:
 - (a) a cohabitant abuse protective order; or
 - (b) an ex parte cohabitant abuse protective order.

Enacted by Chapter 142, 2020 General Session

78B-7-602 Abuse or danger of abuse -- Cohabitant abuse protective orders.

- (1) Any cohabitant who has been subjected to abuse or domestic violence, or to whom there is a substantial likelihood of abuse or domestic violence, may seek a protective order in accordance with this part, whether or not the cohabitant has left the residence or the premises in an effort to avoid further abuse.
- (2) A petition for a protective order may be filed under this part regardless of whether an action for divorce between the parties is pending.
- (3) A petition seeking a protective order may not be withdrawn without approval of the court.

Renumbered and Amended by Chapter 142, 2020 General Session

78B-7-603 Cohabitant abuse protective orders -- Ex parte cohabitant abuse protective orders -- Modification of orders -- Service of process -- Duties of the court.

- (1) If it appears from a petition for a protective order or a petition to modify a protective order that domestic violence or abuse has occurred, that there is a substantial likelihood domestic violence or abuse will occur, or that a modification of a protective order is required, a court may:
 - (a) without notice, immediately issue an ex parte cohabitant abuse protective order or modify a protective order ex parte as the court considers necessary to protect the petitioner and all parties named to be protected in the petition; or
 - (b) upon notice, issue a protective order or modify an order after a hearing, regardless of whether the respondent appears.
- (2) A court may grant the following relief without notice in a protective order or a modification issued ex parte:

- (a) enjoin the respondent from threatening to commit domestic violence or abuse, committing domestic violence or abuse, or harassing the petitioner or any designated family or household member;
 - (b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly, with the exception of any parent-time provisions in the ex parte order;
 - (c) subject to Subsection (2)(e), prohibit the respondent from being within a specified distance of the petitioner;
 - (d) subject to Subsection (2)(e), order that the respondent is excluded from and is to stay away from the following places and their premises:
 - (i) the petitioner's residence or any designated family or household member's residence;
 - (ii) the petitioner's school or any designated family or household member's school;
 - (iii) the petitioner's or any designated family or household member's place of employment;
 - (iv) the petitioner's place of worship or any designated family or household member's place of worship; or
 - (v) any specified place frequented by the petitioner or any designated family or household member;
 - (e) if the petitioner or designated family or household member attends the same school as the respondent, is employed at the same place of employment as the respondent, or attends the same place of worship, the court:
 - (i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent from the respondent's school, place of employment, or place of worship; and
 - (ii) may enter an order governing the respondent's conduct at the respondent's school, place of employment, or place of worship;
 - (f) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a firearm or other weapon specified by the court;
 - (g) order possession and use of an automobile and other essential personal effects, and direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to possession of the residence, automobile, and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;
 - (h) order the respondent to maintain an existing wireless telephone contract or account;
 - (i) grant to the petitioner or someone other than the respondent temporary custody of a minor child of the parties;
 - (j) order the appointment of an attorney guardian ad litem under Sections 78A-2-703 and 78A-2-803;
 - (k) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member; and
 - (l) if the petition requests child support or spousal support, at the hearing on the petition order both parties to provide verification of current income, including year-to-date pay stubs or employer statements of year-to-date or other period of earnings, as specified by the court, and complete copies of tax returns from at least the most recent year.
- (3) A court may grant the following relief in a cohabitant abuse protective order or a modification of an order after notice and hearing, regardless of whether the respondent appears:
- (a) grant the relief described in Subsection (2); and

- (b) specify arrangements for parent-time of any minor child by the respondent and require supervision of that parent-time by a third party or deny parent-time if necessary to protect the safety of the petitioner or child.
- (4) In addition to the relief granted under Subsection (3), the court may order the transfer of a wireless telephone number in accordance with Section 78B-7-117.
- (5) Following the cohabitant abuse protective order hearing, the court shall:
 - (a) as soon as possible, deliver the order to the county sheriff for service of process;
 - (b) make reasonable efforts to ensure that the cohabitant abuse protective order is understood by the petitioner, and the respondent, if present;
 - (c) transmit electronically, by the end of the next business day after the order is issued, a copy of the cohabitant abuse protective order to the local law enforcement agency or agencies designated by the petitioner;
 - (d) transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113; and
 - (e) if the individual is a respondent or defendant subject to a court order that meets the qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours, excluding Saturdays, Sundays, and legal holidays, a record of the order to the Bureau of Criminal Identification that includes:
 - (i) an agency record identifier;
 - (ii) the individual's name, sex, race, and date of birth;
 - (iii) the issue date, conditions, and expiration date for the protective order; and
 - (iv) if available, the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.
- (6) Each protective order shall include two separate portions, one for provisions, the violation of which are criminal offenses, and one for provisions, the violation of which are civil offenses, as follows:
 - (a) criminal offenses are those under Subsections (2)(a) through (g), and under Subsection (3)(a) as it refers to Subsections (2)(a) through (g); and
 - (b) civil offenses are those under Subsections (2)(h) through (l), Subsection (3)(a) as it refers to Subsections (2)(h) through (l), and Subsection (3)(b).
- (7) Child support and spouse support orders issued as part of a protective order are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases, except when the protective order is issued ex parte.
- (8)
 - (a) The county sheriff that receives the order from the court, under Subsection (5), shall provide expedited service for protective orders issued in accordance with this part, and shall transmit verification of service of process, when the order has been served, to the statewide domestic violence network described in Section 78B-7-113.
 - (b) This section does not prohibit any law enforcement agency from providing service of process if that law enforcement agency:
 - (i) has contact with the respondent and service by that law enforcement agency is possible; or
 - (ii) determines that under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.
- (9)

- (a) When an order is served on a respondent in a jail or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.
- (b) Notification of the petitioner shall consist of a good faith reasonable effort to provide notification, including mailing a copy of the notification to the last-known address of the victim.
- (10) A court may modify or vacate a protective order or any provisions in the protective order after notice and hearing, except that the criminal provisions of a cohabitant abuse protective order may not be vacated within two years of issuance unless the petitioner:
 - (a) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and the petitioner personally appears, in person or through court video conferencing, before the court and gives specific consent to the vacation of the criminal provisions of the cohabitant abuse protective order; or
 - (b) submits a verified affidavit, stating agreement to the vacation of the criminal provisions of the cohabitant abuse protective order.
- (11) A protective order may be modified without a showing of substantial and material change in circumstances.
- (12) A civil provision of a protective order described in Subsection (6) may be dismissed or modified at any time in a divorce, parentage, custody, or guardianship proceeding that is pending between the parties to the protective order action if:
 - (a) the parties stipulate in writing or on the record to dismiss or modify a civil provision of the protective order; or
 - (b) the court in the divorce, parentage, custody, or guardianship proceeding finds good cause to dismiss or modify the civil provision.

Amended by Chapter 159, 2021 General Session

Amended by Chapter 262, 2021 General Session

78B-7-604 Hearings.

- (1)
 - (a) The court shall set a date for a hearing on the petition for a cohabitant abuse protective order to be held within 21 days after the day on which the court issues an ex parte cohabitant abuse protective order.
 - (b) If, at the hearing described in Subsection (1)(a), the court does not issue a protective order, the ex parte cohabitant abuse protective order expires, unless extended by the court.
 - (c)
 - (i) The court may extend the 21-day period described in Subsection (1)(a) only if:
 - (A) the petitioner is unable to be present at the hearing;
 - (B) the respondent has not been served;
 - (C) the respondent has had the opportunity to present a defense at the hearing;
 - (D) the respondent requests that the ex parte cohabitant abuse protective order be extended;or
 - (E) exigent circumstances exist.
 - (ii) Under no circumstances may an ex parte cohabitant abuse protective order be extended beyond 180 days from the day on which the court issues the initial ex parte cohabitant abuse protective order.
- (d) If, at that hearing described in Subsection (1)(a), the court issues a cohabitant abuse protective order, the ex parte cohabitant abuse protective order remains in effect until service of process of the protective order is completed.

- (e) A cohabitant abuse protective order issued after notice and a hearing is effective until further order of the court.
- (f) If the hearing described in Subsection (1)(a) is held by a commissioner, the petitioner or respondent may file an objection within 14 days after the day on which the commissioner recommends the order, and, if the petitioner or respondent requests a hearing be held, the assigned judge shall hold a hearing within 21 days after the day on which the objection is filed.
- (2) Upon a hearing under this section, the court may grant any of the relief described in Section 78B-7-603.
- (3) If the court denies a petition for an ex parte cohabitant abuse protective order or a petition to modify a protective order ex parte, the court shall, upon the request of the petitioner made within five days after the day on which the court denies the petition:
 - (a) set the matter for hearing to be held within 21 days after the day on which the petitioner makes the request; and
 - (b) notify and serve the respondent.
- (4)
 - (a) A respondent who has been served with an ex parte cohabitant abuse protective order may seek to vacate the ex parte cohabitant abuse protective order described in Subsection (1)(a) by filing a verified motion to vacate before the day on which the hearing is set.
 - (b) The respondent's verified motion to vacate described in Subsection (4)(a) and a notice of hearing on the motion shall be personally served on the petitioner at least two days before the day on which the hearing on the motion to vacate is set.

Amended by Chapter 159, 2021 General Session

78B-7-605 Dismissal.

- (1) The court may amend or dismiss a protective order issued in accordance with this part that has been in effect for at least one year if the court finds that:
 - (a) the basis for the issuance of the protective order no longer exists;
 - (b) the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order; and
 - (c) the petitioner's actions demonstrate that the petitioner no longer has a reasonable fear of the respondent.
- (2) The court shall enter sanctions against either party if the court determines that either party acted:
 - (a) in bad faith; or
 - (b) with intent to harass or intimidate the other party.
- (3) If a divorce proceeding is pending between parties to a protective order action, the court shall dismiss the protective order when the court issues a decree of divorce for the parties if:
 - (a) the respondent files a motion to dismiss a protective order in both the divorce action and the protective order action and personally serves the petitioner; and
 - (b)
 - (i) the parties stipulate in writing or on the record to dismiss the protective order; or
 - (ii) based on evidence at the divorce trial, the court determines that the petitioner no longer has a reasonable fear of future harm, abuse, or domestic violence.
- (4) When the court dismisses a protective order, the court shall immediately:
 - (a) issue an order of dismissal to be filed in the protective order action; and

- (b) transmit a copy of the order of dismissal to the statewide domestic violence network as described in Section 78B-7-113.

Amended by Chapter 159, 2021 General Session

78B-7-606 Expiration -- Extension.

- (1)
 - (a) Except as provided in Subsection (1)(b) and subject to the other provisions of this section, a cohabitant abuse protective order automatically expires three years after the day on which the cohabitant abuse protective order is entered.
 - (b)
 - (i) The civil provisions of a cohabitant abuse protective order described in Section 78B-7-603 expires 150 days after the day on which the cohabitant abuse protective order is entered, unless the court finds good cause for extending the expiration date of the civil provisions.
 - (ii) Unless a motion under this section is granted, a court may not extend the civil provisions of a cohabitant abuse protective order for more than three years after the day on which the cohabitant abuse protective order is entered.
- (2) A cohabitant abuse protective order automatically expires under Subsection (1), unless the petitioner files a motion before the day on which the cohabitant abuse protective order expires and demonstrates that:
 - (a) the petitioner has a current reasonable fear of future harm, abuse, or domestic violence; or
 - (b) the respondent committed or was convicted of a cohabitant abuse protective order violation or a qualifying domestic violence offense, as defined in Section 77-36-1.1, subsequent to the issuance of the cohabitant abuse protective order.
- (3)
 - (a) If the court grants the motion under Subsection (2), the court shall set a new date on which the cohabitant abuse protective order expires.
 - (b) The cohabitant abuse protective order will expire on the date set by the court unless the petitioner files a motion described in Subsection (2) to extend the cohabitant abuse protective order.

Amended by Chapter 159, 2021 General Session

78B-7-607 Penalties.

- (1) A violation of a criminal provision of a protective order issued under this part is a class A misdemeanor.
- (2) A violation of a civil provision of a protective order issued under this part is contempt of court.

Enacted by Chapter 142, 2020 General Session

78B-7-608 No denial of relief solely because of lapse of time.

The court may not deny a petitioner relief requested under this part solely because of a lapse of time between an act of domestic violence or abuse and the filing of the petition for a protective order.

Renumbered and Amended by Chapter 142, 2020 General Session

78B-7-609 Prohibition of court-ordered or court-referred mediation.

In any case brought under the provisions of this part, the court may not order the parties into mediation for resolution of the issues in a petition for a protective order.

Renumbered and Amended by Chapter 142, 2020 General Session

Part 7

Civil Stalking Injunctions

78B-7-701 Ex parte civil stalking injunction -- Civil stalking injunction.

- (1)
 - (a) Except as provided in Subsection (1)(b), an individual who believes that the individual is the victim of stalking may file a verified written petition for a civil stalking injunction against the alleged stalker with the district court in the district in which the individual or respondent resides or in which any of the events occurred. A minor with the minor's parent or guardian may file a petition on the minor's own behalf, or a parent, guardian, or custodian may file a petition on the minor's behalf.
 - (b) A stalking injunction may not be obtained against a law enforcement officer, governmental investigator, or licensed private investigator, who is acting in official capacity.
- (2) The petition for a civil stalking injunction shall include:
 - (a) the name of the petitioner, however, the petitioner's address shall be disclosed to the court for purposes of service, but, on request of the petitioner, the address may not be listed on the petition, and shall be protected and maintained in a separate document or automated database, not subject to release, disclosure, or any form of public access except as ordered by the court for good cause shown;
 - (b) the name and address, if known, of the respondent;
 - (c) specific events and dates of the actions constituting the alleged stalking;
 - (d) if there is a prior court order concerning the same conduct, the name of the court in which the order was rendered; and
 - (e) corroborating evidence of stalking, which may be in the form of a police report, affidavit, record, statement, item, letter, or any other evidence which tends to prove the allegation of stalking.
- (3)
 - (a) If the court determines that there is reason to believe that an offense of stalking has occurred, an ex parte civil stalking injunction may be issued by the court that includes any of the following:
 - (i) respondent may be enjoined from committing stalking;
 - (ii) respondent may be restrained from coming near the residence, place of employment, or school of the other party or specifically designated locations or persons;
 - (iii) respondent may be restrained from contacting, directly or indirectly, the other party, including personal, written or telephone contact with the other party, the other party's employers, employees, fellow workers or others with whom communication would be likely to cause annoyance or alarm to the other party; or
 - (iv) any other relief necessary or convenient for the protection of the petitioner and other specifically designated individuals under the circumstances.
 - (b) If the petitioner and respondent have minor children, the court shall follow the provisions of Section 78B-7-603 and take into consideration the respondent's custody and parent-time

rights while ensuring the safety of the victim and the minor children. If the court issues a civil stalking injunction, but declines to address custody and parent-time issues, a copy of the stalking injunction shall be filed in any action in which custody and parent-time issues are being considered.

- (4) Within 10 days after the day on which the the ex parte civil stalking injunction is served, the respondent is entitled to request, in writing, an evidentiary hearing on the civil stalking injunction.
 - (a) A hearing requested by the respondent shall be held within 10 days after the day on which the request is filed with the court unless the court finds compelling reasons to continue the hearing. The hearing shall then be held at the earliest possible time. The burden is on the petitioner to show by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.
 - (b) An ex parte civil stalking injunction issued under this section shall state on the civil stalking injunction's face:
 - (i) that the respondent is entitled to a hearing, upon written request within 10 days after the day on which the order is served;
 - (ii) the name and address of the court where the request may be filed;
 - (iii) that if the respondent fails to request a hearing within 10 days after the day on which the ex parte civil stalking injunction is served, the ex parte civil stalking injunction is automatically modified to a civil stalking injunction without further notice to the respondent and the civil stalking injunction expires three years after the day on which the ex parte civil stalking injunction is served; and
 - (iv) that if the respondent requests, in writing, a hearing after the ten-day period after service, the court shall set a hearing within a reasonable time from the date requested.
- (5) At the hearing, the court may modify, revoke, or continue the injunction. The burden is on the petitioner to show by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.
- (6) The ex parte civil stalking injunction shall be served on the respondent within 90 days after the day on which the ex parte civil stalking injunction is signed. An ex parte civil stalking injunction is effective upon service. If no hearing is requested in writing by the respondent within 10 days after the day on which the ex parte civil stalking injunction is served, the ex parte civil stalking injunction automatically becomes a civil stalking injunction without further notice to the respondent and expires three years after the day on which the ex parte civil stalking injunction is served.
- (7) If the respondent requests a hearing after the 10-day period after service, the court shall set a hearing within a reasonable time from the date requested. At the hearing, the burden is on the respondent to show good cause why the civil stalking injunction should be dissolved or modified.
- (8) Within 24 hours after the affidavit or acceptance of service has been returned, excluding weekends and holidays, the clerk of the court from which the ex parte civil stalking injunction was issued shall enter a copy of the ex parte civil stalking injunction and proof of service or acceptance of service in the statewide network for warrants or a similar system.
 - (a) The effectiveness of an ex parte civil stalking injunction or civil stalking injunction may not depend upon entry of the ex parte civil stalking injunction or civil stalking injunction in the statewide system and, for enforcement purposes, a certified copy of an ex parte civil stalking injunction or civil stalking injunction is presumed to be a valid existing order of the court for a period of three years after the day on which the ex parte civil stalking injunction is served on the respondent.

- (b) Any changes or modifications of the ex parte civil stalking injunction are effective upon service on the respondent. The original ex parte civil stalking injunction continues in effect until service of the changed or modified civil stalking injunction on the respondent.
- (9) Within 24 hours after the affidavit or acceptance of service is returned, excluding weekends and holidays, the clerk of the court shall enter a copy of the changed or modified civil stalking injunction and proof of service or acceptance of service in the statewide network for warrants or a similar system.
- (10) The ex parte civil stalking injunction or civil stalking injunction may be dissolved at any time upon application of the petitioner to the court that granted the ex parte civil stalking injunction or civil stalking injunction.
- (11) An ex parte civil stalking injunction and a civil stalking injunction shall be served by a sheriff or constable in accordance with this section.
- (12) The remedies provided in this chapter for enforcement of the orders of the court are in addition to any other civil and criminal remedies available. The court shall hear and decide all matters arising under this section.
- (13) After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees.
- (14) This section does not apply to preliminary injunctions issued under an action for dissolution of marriage or legal separation.

Renumbered and Amended by Chapter 142, 2020 General Session

78B-7-702 Mutual civil stalking injunctions.

- (1) A court may not grant a mutual order or mutual civil stalking injunction to opposing parties, unless each party:
 - (a) files an independent petition against the other for a civil stalking injunction, and both petitions are served;
 - (b) makes a showing at an evidentiary hearing on the civil stalking injunction that stalking has occurred by the other party; and
 - (c) demonstrates the alleged act did not occur in self-defense.
- (2) If the court issues mutual civil stalking injunctions, the court shall include specific findings of all elements of Subsection (1) in the court order justifying the entry of the court orders.
- (3)
 - (a) Except as provided in Subsection (3)(b), a court may not grant a protective order to a civil petitioner who is the respondent or defendant subject to:
 - (i) a civil stalking injunction;
 - (ii) a civil protective order that is issued under:
 - (A) this part;
 - (B) Part 2, Child Protective Orders;
 - (C) Part 6, Cohabitant Abuse Protective Orders;
 - (D) Part 8, Criminal Protective Orders; or
 - (E) Title 80, Utah Juvenile Code;
 - (iii) an ex parte civil protective order issued under Part 2, Child Protective Orders; or
 - (iv) a foreign protection order enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.
 - (b) The court may issue a protective order to a civil petitioner described in Subsection (3)(a) if:
 - (i) the court determines that the requirements of Subsection (1) are met; and
 - (ii)

- (A) the same court issued the protective order against the respondent; or
- (B) the subsequent court determines it would be impractical for the original court to consider the matter or confers with the court that issued the protective order described in Subsection (3)(a)(ii) or (iii).

Amended by Chapter 262, 2021 General Session

78B-7-703 Violation.

- (1) A violation of an ex parte civil stalking injunction or of a civil stalking injunction issued under this part constitutes the criminal offense of stalking under Section 76-5-106.5 and is also a violation of the civil stalking injunction.
- (2) A violation of an ex parte civil stalking injunction or of a civil stalking injunction issued under this part may be enforced by a civil action initiated by the petitioner, a criminal action initiated by a prosecuting attorney, or both.

Renumbered and Amended by Chapter 142, 2020 General Session

Part 8

Criminal Protective Orders

78B-7-801 Definitions.

As used in this part:

- (1)
 - (a) "Jail release agreement" means a written agreement that is entered into by an individual who is arrested or issued a citation, regardless of whether the individual is booked into jail:
 - (i) under which the arrested or cited individual agrees to not engage in any of the following:
 - (A) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;
 - (B) threatening or harassing the alleged victim; or
 - (C) knowingly entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim; and
 - (ii) that specifies other conditions of release from jail or arrest.
 - (b) "Jail release agreement" includes a written agreement that includes the conditions described in Section (1)(a) entered into by a minor who is taken into custody or placed in detention or a shelter facility under Section 78A-6-112.
- (2) "Jail release court order" means a written court order that:
 - (a) orders an arrested or cited individual not to engage in any of the following:
 - (i) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;
 - (ii) threatening or harassing the alleged victim; or
 - (iii) knowingly entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim; and
 - (b) specifies other conditions of release from jail.
- (3) "Minor" means the same as that term is defined in Section 80-1-102.
- (4) "Offense against a child or vulnerable adult" means the commission or attempted commission of an offense described in Section 76-5-109, 76-5-109.1, 76-5-110, 76-5-111, or 76-9-702.1.

(5) "Qualifying offense" means:

- (a) domestic violence;
- (b) an offense against a child or vulnerable adult; or
- (c) the commission or attempted commission of an offense described in Section 76-9-702.1 or Title 76, Chapter 5, Part 4, Sexual Offenses.

Amended by Chapter 159, 2021 General Session

Amended by Chapter 159, 2021 General Session, (Coordination Clause)

78B-7-802 Conditions for release after arrest for domestic violence and other offenses -- Jail release agreements -- Jail release court orders.

- (1) Upon arrest or issuance of a citation for a qualifying offense and before the individual is released under Section 77-20-204 or 77-20-205, the individual may not telephone, contact, or otherwise communicate with the alleged victim, directly or indirectly.
- (2)
 - (a) After an individual is arrested or issued a citation for a qualifying offense, the individual may not be released before:
 - (i) the matter is submitted to a magistrate in accordance with Section 77-7-23; or
 - (ii) the individual signs a jail release agreement.
 - (b) If an arrested individual is booked into jail, the arresting officer shall ensure that the information presented to the magistrate includes whether the alleged victim has made a waiver described in Subsection (5)(a).
 - (c) If the magistrate determines there is probable cause to support the charge or charges of one or more qualifying offenses, the magistrate shall issue a temporary pretrial status order, as defined in Section 77-20-102, in accordance with Section 77-20-205.
 - (d) The magistrate may not release an individual arrested for a qualifying offense unless the magistrate issues a jail release court order or the arrested individual signs a jail release agreement.
- (3)
 - (a) If an individual charged with a qualifying offense fails to either schedule an initial appearance or to appear at the time scheduled by the magistrate within 96 hours after the time of arrest, the individual shall comply with the release conditions of a jail release agreement or jail release court order until the individual makes an initial appearance.
 - (b) If the prosecutor has not filed charges against an individual who was arrested for a qualifying offense and who appears in court at the time scheduled by the magistrate under Subsection (2), or by the court under Subsection (3)(b)(ii), the court:
 - (i) may, upon the motion of the prosecutor and after allowing the individual an opportunity to be heard on the motion, extend the release conditions described in the jail release court order or the jail release agreement by no more than three court days; and
 - (ii) if the court grants the motion described in Subsection (3)(b)(i), shall order the arrested individual to appear at a time scheduled before the end of the granted extension.
 - (c)
 - (i) If the prosecutor determines that there is insufficient evidence to file charges before an initial appearance scheduled under Subsection (3)(a), the prosecutor shall transmit a notice of declination to either the magistrate who signed the jail release court order or, if the releasing agency obtains a jail release agreement from the released arrestee, to the statewide domestic violence network described in Section 78B-7-113.

- (ii) A prosecutor's notice of declination transmitted under this Subsection (3)(c) is considered a motion to dismiss a jail release court order and a notice of expiration of a jail release agreement.
 - (4) Except as provided in Subsections (3) and (11) or otherwise ordered by a court, a jail release agreement or jail release court order expires at midnight after the earlier of:
 - (a) the arrested or cited individual's initial scheduled court appearance described in Subsection (3)(a);
 - (b) the day on which the prosecutor transmits the notice of the declination under Subsection (3)(c); or
 - (c) 30 days after the day on which the individual is arrested or issued a citation.
 - (5)
 - (a)
 - (i) After an individual is arrested or issued a citation for a qualifying offense, an alleged victim who is not a minor may waive in writing any condition of a jail release agreement by:
 - (A) appearing in person to the law enforcement agency that arrested the individual or issued the citation to the individual for the qualifying offense;
 - (B) appearing in person to the jail or correctional facility that released the arrested individual from custody; or
 - (C) appearing in person to the clerk at the court of the jurisdiction where the charges are filed.
 - (ii) An alleged victim who is not a minor may waive in writing the release conditions prohibiting:
 - (A) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly; or
 - (B) knowingly entering on the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim.
 - (iii) Except as provided in Subsection (5)(a)(iv), a parent or guardian may waive any condition of a jail release agreement on behalf of an alleged victim who is a minor in the manner described in Subsections (5)(a)(i) and (ii).
 - (iv) A parent or guardian may not, without the approval of the court, waive the release conditions described in Subsection (5)(a)(ii) on behalf of an alleged victim who is a minor, if the alleged victim who is a minor:
 - (A) allegedly suffers bodily injury as a result of the qualifying offense;
 - (B) summons or attempts to summon emergency aid for the qualifying offense; or
 - (C) after the time at which the qualifying offense is allegedly committed and before the time at which the arrested or cited individual signs the jail release agreement, discloses to a law enforcement officer that the arrested or cited individual threatened the alleged victim who is a minor with bodily injury.
 - (v) Upon waiver, the release conditions described in Subsection (5)(a)(ii) do not apply to the arrested or cited individual.
 - (b) A court or magistrate may modify a jail release agreement or a jail release court order in writing or on the record, and only for good cause shown.
- (6)
 - (a) When an individual is arrested or issued a citation and subsequently released in accordance with Subsection (2), the releasing agency shall:
 - (i) notify the arresting law enforcement agency of the release, conditions of release, and any available information concerning the location of the alleged victim;
 - (ii) make a reasonable effort to notify the alleged victim of the release; and
 - (iii) before releasing the individual who is arrested or issued a citation, give the arrested or cited individual a copy of the jail release agreement or the jail release court order.

- (b)
 - (i) When an individual arrested or issued a citation for domestic violence is released under this section based on a jail release agreement, the releasing agency shall transmit that information to the statewide domestic violence network described in Section 78B-7-113.
 - (ii) When an individual arrested or issued a citation for domestic violence is released under this section based upon a jail release court order or if a jail release agreement is modified under Subsection (5)(b), the court shall transmit that order to the statewide domestic violence network described in Section 78B-7-113.
- (c) This Subsection (6) does not create or increase liability of a law enforcement officer or agency, and the good faith immunity provided by Section 77-36-8 is applicable.
- (7) An individual who is arrested for a qualifying offense that is a felony and released in accordance with this section may subsequently be held without bail if there is substantial evidence to support a new felony charge against the individual.
- (8) At the time an arrest is made or a citation is issued for a qualifying offense, the arresting officer shall provide the alleged victim with written notice containing:
 - (a) the release conditions described in this section, and notice that the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:
 - (i) the alleged perpetrator enters into a jail release agreement to comply with the release conditions; or
 - (ii) the magistrate issues a jail release order that specifies the release conditions;
 - (b) notification of the penalties for violation of any jail release agreement or jail release court order;
 - (c) the address of the appropriate court in the district or county in which the alleged victim resides;
 - (d) the availability and effect of any waiver of the release conditions; and
 - (e) information regarding the availability of and procedures for obtaining civil and criminal protective orders with or without the assistance of an attorney.
- (9) At the time an arrest is made or a citation is issued for a qualifying offense, the arresting officer shall provide the alleged perpetrator with written notice containing:
 - (a) notification that the alleged perpetrator may not contact the alleged victim before being released, including telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;
 - (b) the release conditions described in this section and notice that the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:
 - (i) the alleged perpetrator enters into a jail release agreement to comply with the release conditions; or
 - (ii) the magistrate issues a jail release court order;
 - (c) notification of the penalties for violation of any jail release agreement or jail release court order; and
 - (d) notification that the alleged perpetrator is to personally appear in court on the next day the court is open for business after the day of the arrest.
- (10)
 - (a) A pretrial or sentencing protective order issued under this part supersedes a jail release agreement or jail release court order.

- (b) If a court dismisses the charges for the qualifying offense that gave rise to a jail release agreement or jail release court order, the court shall dismiss the jail release agreement or jail release court order.
- (11)
 - (a) This section does not apply if the individual arrested for the qualifying offense is a minor who is under 18 years old, unless the qualifying offense is domestic violence.
 - (b) A jail release agreement signed by, or a jail release court order issued against, a minor expires on the earlier of:
 - (i) the day of the minor's initial court appearance described in Subsection (3)(a);
 - (ii) the day on which the prosecutor transmits the notice of declination under Subsection (3)(c);
 - (iii) 30 days after the day on which the minor is arrested or issued a citation; or
 - (iv) the day on which the juvenile court terminates jurisdiction.

Amended by Chapter 4, 2021 Special Session 2

78B-7-803 Pretrial protective orders.

- (1)
 - (a) When an alleged perpetrator is charged with a crime involving a qualifying offense, the court shall, at the time of the alleged perpetrator's court appearance under Section 77-36-2.6:
 - (i) determine the necessity of imposing a pretrial protective order or other condition of pretrial release; and
 - (ii) state the court's findings and determination in writing.
 - (b) Except as provided in Subsection (4), in any criminal case, the court may, during any court hearing where the alleged perpetrator is present, issue a pretrial protective order, pending trial.
- (2) A court may include any of the following provisions in a pretrial protective order:
 - (a) an order enjoining the alleged perpetrator from threatening to commit or committing acts of domestic violence or abuse against the victim and any designated family or household member;
 - (b) an order prohibiting the alleged perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;
 - (c) an order removing and excluding the alleged perpetrator from the victim's residence and the premises of the residence;
 - (d) an order requiring the alleged perpetrator to stay away from the victim's residence, school, or place of employment, and the premises of any of these, or any specified place frequented by the victim and any designated family member;
 - (e) an order for any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member;
 - (f) an order identifying and requiring an individual designated by the victim to communicate between the alleged perpetrator and the victim if and to the extent necessary for family related matters;
 - (g) an order requiring the alleged perpetrator to participate in an electronic or other type of monitoring program; and
 - (h) if the alleged victim and the alleged perpetrator share custody of one or more minor children, an order for indirect or limited contact to temporarily facilitate parent visitation with a minor child.

- (3) If the court issues a pretrial protective order, the court shall determine whether to allow provisions for transfer of personal property to decrease the need for contact between the parties.
- (4) A pretrial protective order issued under this section against an alleged perpetrator who is a minor expires on the earlier of:
 - (a) the day on which the court issues an order against the alleged perpetrator under Section 78B-7-804 or 805 or otherwise makes a disposition of the alleged perpetrator's case under Section 78A-6-117; or
 - (b) the day on which the juvenile court terminates jurisdiction.

Amended by Chapter 159, 2021 General Session

78B-7-804 Sentencing and continuous protective orders for a domestic violence offense -- Modification -- Expiration.

- (1) Before a perpetrator who has been convicted of or adjudicated for a domestic violence offense may be placed on probation, the court shall consider the safety and protection of the victim and any member of the victim's family or household.
- (2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:
 - (a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;
 - (b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;
 - (c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;
 - (d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;
 - (e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and
 - (f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.
- (3)
 - (a) Because of the serious, unique, and highly traumatic nature of domestic violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of a perpetrator who is convicted of or adjudicated for domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the issuance of continuous protective orders under this Subsection (3) because of the need to provide ongoing protection for the victim and to be consistent with the purposes of protecting victims' rights under Title 77, Chapter 37, Victims' Rights, and Title 77, Chapter 38, Rights of Crime Victims Act, and Article I, Section 28 of the Utah Constitution.
 - (b) Except as provided in Subsection (6), if a perpetrator is convicted of a domestic violence offense resulting in a sentence of imprisonment, including jail, that is to be served after conviction, the court shall issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim unless the court determines by clear and convincing evidence that the victim does not have a reasonable fear of future harm or abuse.
 - (c)

- (i) The court shall notify the perpetrator of the right to request a hearing.
- (ii) If the perpetrator requests a hearing under this Subsection (3)(c), the court shall hold the hearing at the time determined by the court. The continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.
- (d) A continuous protective order is permanent in accordance with this Subsection (3) and may include:
 - (i) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;
 - (ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;
 - (iii) an order prohibiting the perpetrator from going to the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or other household member;
 - (iv) an order directing the perpetrator to pay restitution to the victim as may apply, and shall be enforced in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act; and
 - (v) any other order the court considers necessary to fully protect the victim and members of the victim's family or other household member.
- (4) A continuous protective order may be modified or dismissed only if the court determines by clear and convincing evidence that all requirements of Subsection (3) have been met and the victim does not have a reasonable fear of future harm or abuse.
- (5) Except as provided in Subsection (6), in addition to the process of issuing a continuous protective order described in Subsection (3), a district court may issue a continuous protective order at any time if the victim files a petition with the court, and after notice and hearing the court finds that a continuous protective order is necessary to protect the victim.
- (6)
 - (a) Unless the juvenile court transfers jurisdiction of the offense to the district court under Section 80-6-504, a continuous protective order may not be issued under this section against a perpetrator who is a minor.
 - (b) Unless the court sets an earlier date for expiration, a sentencing protective order issued under this section against a perpetrator who is a minor expires on the earlier of:
 - (i) the day on which the juvenile court terminates jurisdiction; or
 - (ii) in accordance with Section 80-6-807, the day on which the Division of Juvenile Justice Services discharges the perpetrator.

Amended by Chapter 159, 2021 General Session, (Coordination Clause)

Amended by Chapter 159, 2021 General Session

Amended by Chapter 260, 2021 General Session

78B-7-805 Sentencing protective orders and continuous protective orders for an offense that is not domestic violence -- Modification -- Expiration.

- (1) Before a perpetrator has been convicted of or adjudicated for an offense that is not domestic violence is placed on probation, the court may consider the safety and protection of the victim and any member of the victim's family or household.
- (2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:
 - (a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

- (b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;
 - (c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;
 - (d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;
 - (e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and
 - (f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.
- (3)
- (a) If a perpetrator is convicted of an offense that is not domestic violence resulting in a sentence of imprisonment that is to be served after conviction, the court may issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim if the court determines by clear and convincing evidence that the victim has a reasonable fear of future harm or abuse.
 - (b)
 - (i) The court shall notify the perpetrator of the right to request a hearing.
 - (ii) If the perpetrator requests a hearing under this Subsection (3), the court shall hold the hearing at the time determined by the court and the continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.
 - (c) Except as provided in Subsection (6), a continuous protective order is permanent in accordance with this Subsection (3)(c) and may include any order described in Subsection 78B-7-804(3)(c).
- (4) A continuous protective order issued under this section may be modified or dismissed only in accordance with Subsection 78B-7-804(4).
- (5) Except as provided in Subsection (6), in addition to the process of issuing a continuous protective order described in Subsection (3)(a), a district court may issue a continuous protective order at any time in accordance with Subsection 78B-7-804(5).
- (6)
- (a) Unless the juvenile court transfers jurisdiction of the offense to the district court under Section 80-6-504, a continuous protective order may not be issued under this section against a perpetrator who is a minor.
 - (b) Unless the court sets an earlier date for expiration, a sentencing protective order issued under this section against a perpetrator who is a minor expires on the earlier of:
 - (i) the day on which the juvenile court terminates jurisdiction; or
 - (ii) in accordance with Section 80-6-807, the day on which the Division of Juvenile Justice Services discharges the perpetrator.

Amended by Chapter 159, 2021 General Session

Amended by Chapter 159, 2021 General Session, (Coordination Clause)

78B-7-806 Penalties.

- (1)
- (a) A violation of Subsection 78B-7-802(1) is a class B misdemeanor.
 - (b) An individual who knowingly violates a jail release court order or jail release agreement executed under Subsection 78B-7-802(2) is guilty of:

- (i) a third degree felony, if the original arrest was for a felony; or
 - (ii) a class A misdemeanor, if the original arrest was for a misdemeanor.
- (2) A violation of a pretrial protective order issued under this part is:
 - (a) a third degree felony, if the original arrest or subsequent charge filed is a felony; or
 - (b) a class A misdemeanor, if the original arrest or subsequent charge filed is a misdemeanor.
- (3) A violation of a sentencing protective order and of a continuous protective order issued under this part is:
 - (a) a third degree felony, if the conviction was a felony; or
 - (b) a class A misdemeanor, if the conviction was a misdemeanor.

Enacted by Chapter 142, 2020 General Session

78B-7-807 Notice to victims.

- (1)
 - (a) The court shall provide the victim with a certified copy of any pretrial protective order that has been issued if the victim can be located with reasonable effort.
 - (b) If the court is unable to locate the victim, the court shall provide the victim's certified copy to the prosecutor.
 - (c) A sentencing protective order or continuous protective order issued under this part shall be in writing, and the prosecutor shall provide a certified copy of that order to the victim.
- (2)
 - (a) Adult Probation and Parole, or another provider, shall immediately report to the court and notify the victim of any violation of any sentencing protective order issued under this part.
 - (b) Notification of the victim under Subsection (2)(a) shall consist of a good faith reasonable effort to provide prompt notification, including mailing a copy of the notification to the last-known address of the victim.
- (3)
 - (a) Before release of an individual who is subject to a continuous protective order issued under this part, the victim shall receive notice of the imminent release by the law enforcement agency that is releasing the individual who is subject to the continuous protective order:
 - (i) if the victim has provided the law enforcement agency contact information; and
 - (ii) in accordance with Section 64-13-14.7, if applicable.
 - (b) Before release, the law enforcement agency shall notify in writing the individual being released that a violation of the continuous protective order issued at the time of conviction or sentencing continues to apply, and that a violation of the continuous protective order is punishable as described in Section 78B-7-806.
- (4) The court shall transmit a dismissal, termination, and expiration of a pretrial protective order, sentencing protective order, or a continuous protective order to the statewide domestic violence network described in Section 78B-7-113.

Enacted by Chapter 142, 2020 General Session

Part 9

Criminal Stalking Injunctions

78B-7-901 Definitions.

As used in this part:

- (1) "Conviction" means:
 - (a) a verdict or conviction;
 - (b) a plea of guilty or guilty and mentally ill;
 - (c) a plea of no contest; or
 - (d) the acceptance by the court of a plea in abeyance.
- (2) "Immediate family" means the same as that term is defined in Section 76-5-106.5.

Enacted by Chapter 142, 2020 General Session

78B-7-902 Permanent criminal stalking injunction -- Modification.

- (1)
 - (a) The following serve as an application for a permanent criminal stalking injunction limiting the contact between the defendant and the victim:
 - (i) a conviction for:
 - (A) stalking; or
 - (B) attempt to commit stalking; or
 - (ii) a plea to any of the offenses described in Subsection (1)(a)(i) accepted by the court and held in abeyance for a period of time.
 - (b)
 - (i) The district court shall issue a permanent criminal stalking injunction at the time of conviction.
 - (ii) The court shall give the defendant notice of the right to request a hearing.
 - (c) If the defendant requests a hearing under Subsection (1)(b), the court shall hold the hearing at the time of the conviction unless the victim requests otherwise, or for good cause.
 - (d) If the conviction was entered in a justice court, the victim shall file a certified copy of the judgment and conviction or a certified copy of the court's order holding the plea in abeyance with the court as an application and request for a hearing for a permanent criminal stalking injunction.
- (2) The court shall issue a permanent criminal stalking injunction granting the following relief where appropriate:
 - (a) an order:
 - (i) restraining the defendant from entering the residence, property, school, or place of employment of the victim; and
 - (ii) requiring the defendant to stay away from the victim, except as provided in Subsection (4), and to stay away from any specified place that is named in the order and is frequented regularly by the victim;
 - (b) an order restraining the defendant from making contact with or regarding the victim, including an order forbidding the defendant from personally or through an agent initiating any communication, except as provided in Subsection (3), likely to cause annoyance or alarm to the victim, including personal, written, or telephone contact with or regarding the victim, with the victim's employers, employees, coworkers, friends, associates, or others with whom communication would be likely to cause annoyance or alarm to the victim; and
 - (c) any other orders the court considers necessary to protect the victim and members of the victim's immediate family or household.
- (3)

- (a) If the victim and defendant have minor children together, the court may consider provisions regarding the defendant's exercise of custody and parent-time rights while ensuring the safety of the victim and any minor children.
- (b) If the court issues a permanent criminal stalking injunction, but declines to address custody and parent-time issues, a copy of the permanent criminal stalking injunction shall be filed in any action in which custody and parent-time issues are being considered and the court may modify the injunction to balance the parties' custody and parent-time rights.
- (4) Except as provided in Subsection (3), a permanent criminal stalking injunction may be modified, dissolved, or dismissed only upon application of the victim to the court which granted the injunction.

Enacted by Chapter 142, 2020 General Session

78B-7-903 Penalties.

- (1) A violation of a permanent criminal stalking injunction issued under this part is a third degree felony in accordance with Subsection 76-5-106.5(7).
- (2) A violation of a permanent criminal stalking injunction issued under this part may be enforced in a civil action initiated by the stalking victim, a criminal action initiated by a prosecuting attorney, or both.

Enacted by Chapter 142, 2020 General Session

78B-7-904 Notice to victims.

- (1) The court shall send notice of permanent criminal stalking injunctions issued under this part to the statewide warrants network or similar system, including the statewide domestic violence network described in Section 78B-7-113.
- (2) A permanent criminal stalking injunction issued under this part has effect statewide.

Enacted by Chapter 142, 2020 General Session